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10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

13 RONALD CUPP

14 Plaintiff,

15 vs.

16 COUNTY OF SONOMA, et al,

17 Defendants.

CASE NO.: 4:23-cv-01007

**DEFENDANTS' CASE MANAGEMENT
CONFERENCE STATEMENT (Cover
page) [FRCP Rule 26(f); Civil Local Rule
16-9]**

Date: March 25 2025

Time: 2:00 p.m.

Location: Courtroom 6; 2nd Floor

Judge: Hon. Jon S. Tigar

21 The parties to the above-entitled action met and conferred on January 7, 2025, after Defendants'
22 counsel submitted a draft Joint Case Management Statement to Plaintiff counsel on January 3, 2025.
23 Plaintiff counsel submitted two edited versions during and after that meet and confer discussion. Defense
24 counsel agreed to both versions with the addition of a single sentence in Section 21B. Defense counsel
25 advised Plaintiff counsel of the minor edit and approved the draft with that addition. After further request
26 on January 8, Defense counsel submitted a separate document for filing. (ECF 70).

27 Defense counsel submitted a very similar draft to Plaintiff counsel on March 11, 2025, soliciting
28 revisions and edits for filing a Joint Case Management Statement. Defense counsel also offered to meet

1 and confer telephonically. There was no response, so defense counsel sent another e-mail on Monday
2 March 17, indicating that Defendants would again file a separate statement since there was no word from
3 Plaintiff counsel, and no edits or revisions. Defendants submitted their own Statement on March 18.
4 (ECF 72).

5 On April 30, 2025, Defense counsel submitted a similar draft to Plaintiff counsel with some
6 updates based upon the Order Re: Defendants' Motion to Dismiss (ECF 73) and the status of the State
7 Court action. Suggested calendar dates were entered without any confirmation from Plaintiff. Once again,
8 Defense counsel solicited revisions and edits for filing a Joint Case Management Statement. There has
9 been no response from Plaintiff counsel.

10 The attached Statement by Defendant primarily consists of Plaintiff's last draft from January 7,
11 2025, with one addition requested by Defense counsel on January 7 and a status update on the State Court
12 Code Enforcement action set for trial June 13, 2025 (See Section 10). Although most of Plaintiff's draft
13 language is retained from January 7, this proposed statement is not authorized in any way by Plaintiff
14 counsel. No permission was given to a joint filing.

15
16 Dated: May 6, 2025

17
18 By: /s/ Michael A. King
19 MICHAEL A. KING,
20 Deputy County Counsel
21 Attorneys for Defendants
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11 **NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

13 RONALD CUPP

14 Plaintiff,

15 vs.

16 COUNTY OF SONOMA, et al,

17 Defendants.

CASE NO.: 4:23-cv-01007

**[Draft] JOINT CASE MANAGEMENT
CONFERENCE STATEMENT
[FRCP Rule 26(f); Civil Local Rule
16-9]**

Date: May 13, 2025

Time: 2:00 p.m.

Location: Courtroom 6; 2nd Floor

Judge: Hon. Jon S. Tigar

The parties to the above-entitled action submit this Joint Case Management Statement & Proposed Order pursuant to the Standing Order for All Judges of the Northern District of California and Civil Local Rule 16-9 and Civil Local Rule 16-9:

1. JURISDICTION & SERVICE

Cupp has served all Defendants. There are no issues regarding personal jurisdiction or venue. This Court has federal-question jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights), 28 U.S.C. § 2201 (declaratory relief), and 42 U.S.C. § 1983.

2. FACTS

A. Plaintiff's Statement of Relevant Facts:

In or around 2015 and 2017, as a response to California's legalization of cannabis, the County of Sonoma ("the County") enacted and implemented an official policy known as the "Code Enforcement Enhancement Program" (CEEP), which gave new and sweeping powers to the County's Code Enforcement Division ("CED"), part of the County's Permit Resources Management Department ("PRMD") a.k.a. Permit Sonoma. In 2019, the County augmented the new powers granted to CED by also enacting a clandestine policy authorizing the use of unmanned aerial vehicles a.k.a. "drones" to surveil private land in the County.

While ostensibly enacted to clear a backlog of old local code violations cases that had allegedly languished due to staffing shortages, the true intent and purpose of CEEP was to transform CED, which is not a "law enforcement" agency within the meaning of California laws, into a quasi-law enforcement agency to target unpermitted cannabis operation – particularly small-time operations. Once cannabis was legalized in 2016, and regulation was handed over to local jurisdictions, the County (by no means an outlier) immediately recognized the potentially revenue generating potential that lay in front of it. By enacting CEEP and implementing it the way the County has done, the County has created a government-sponsored revenue machine for the County at the expense of private landowners. As implemented,

1 CEEP has established and incentivized a concerted and purposeful government scheme to maximize
2 revenue by squeezing every dollar possible out of the pockets of private landowners in the form of
3 excessive fines and penalties for alleged local code violations.
4

5 To find these alleged code violations, CED officers routinely search private land – using drones
6 and other, more traditional methods – without first obtaining inspection warrants. Receipt of a
7 “confidential complaint” frequently triggers warrantless CED inspections. On information and belief, at
8 least some of these complaints lack a complaining citizen, but due to confidentiality which cloaks such
9 complaints, the landowner remains ignorant of the ruse. When inspection warrants are sought, it is often
10 after the fact, and in case after case, CED officers present false and misleading declarations in support of
11 an inspection warrant to judicial officers which hide or obfuscate their unconstitutional behavior.
12

13 The result for private landowners is to be caught between Scylla and Charybdis. On the one
14 hand, they face a multi-pronged effort designed to maximize revenue while preventing compliance. The
15 County imposes crippling fines for every possible violation a CED officer spies, characterizing them as
16 health and safety violations to inflate their significance and cost. When violations cannot be found, they
17 are manufactured out of whole cloth, including for conditions where the landowner holds a valid permit.
18

19 Once violated, landowners are given only the shortest possible window of opportunity to
20 challenge the violations through an administrative appeal process – 10 days – after which time the
21 violations are conclusively presumed to be accurate according to local ordinance. In almost every case,
22 the County does not even advise the landowner of the total fees and penalties he owes in 10 days, so
23 landowners do not appreciate the precariousness or gravity of the situation they now find themselves in.
24 Even for the proactive landowners who timely requests an administrative appeal, the process is subject
25 to County delays and may not even happen. It’s an administrative quagmire for unsuspecting
26 landowners.
27
28

1 Some landowners try to remedy the violations. If these landowners engage in self-help to remedy
2 violations – e.g., they take down a shed voluntarily – their violations continue because they did not
3 apply for an obtain a demolition permit and obtain a “sign off” on the demolition by a CED officer.
4 When these landowners do apply for permits to remediate the alleged violations, however, they are often
5 subjected to repeated and unexplained delays and forced to clear impossible administrative and
6 procedural hurdles. All the while, their fines and penalties continue to increase on a per diem basis, even
7 though the condition is long gone.
8

9 Under this per diem penalty regime, The County has no incentive to act promptly, if ever, for a
10 landowner. To date, the County has not even granted a reprieve for landowners facing fines and
11 penalties for the period when the County shut down entirely during the COVID-19 pandemic. The
12 County is also reaching back in time to gather alleged violations that are 5, 10, and even 20 years old,
13 applying fines and penalties calculations in disregard of current methods of calculations and in disregard
14 of other County policies designed to protect landowners. It is little wonder then that counsel has met
15 family after family facing financial ruin, holding bills from the County for \$300,000, \$500,000, or even
16 \$1 million dollars for so-called health and safety violations or “public nuisances” that are sheer fantasy
17 trumped up CED officers.
18

19 On the other side of this scheme, landowners face a Charybdis whirlpool where, when they
20 cannot pay off the fines and penalties, they are sued by the County, their land seized either through a
21 receivership petition or a tax deed, and they are permanently dispossessed of their property.
22

23 Under either scenario, both of which were activated and instigated by formal County policies,
24 landowners who come under County scrutiny are financially ruined, with many losing their entire life’s
25 savings or land their families have held for generations.
26

27 Plaintiff contends these policies either as enacted or implemented are unconstitutional, or they
28 have enabled, promoted, instigated, or ratified a pattern of unconstitutional conduct by government

1 officials operating through Permit Sonoma. Specifically, Cupp contends these official County policies
2 and the pattern of behavior or practices emanating from them, including but not limited to the use of
3 drones to search private land without a warrant, subject the County to liability under the *Monell*
4 Doctrine. Cupp contends his private land located at 4640 Arlington Avenue was subjected to a
5 warrantless drone search in or about July 2022 by CED officers; namely, Defendants TODD
6 HOFFMAN and JESSE CABLK. Cupp has reason to believe, based on information learned as recently
7 as September 10, 2024, that his property may have been searched without a warrant by drones operating
8 since July 2022 not only by CED, but also by other local agencies that work in tandem with CED such
9 as the County Department of Agriculture (“the Ag Dept.”) The Ag Dept. flies at least one drone over
10 private land without warrants looking for unpermitted cannabis growing operations. The County is now
11 attempting to seize Cupp’s land through a tax sale as well. Cupp seeks compensatory, nominal, and
12 punitive damages as well as injunctive and equitable relief.
13
14

15 Cupp filed a First Amended Complaint (FAC) on April 30, 2024; alleging some additional facts
16 and additional violations by Defendants including a violation of the Eighth Amendment’s prohibition
17 against excessive fines and penalties levied by the County pursuant to one or more of its unconstitutional
18 policies and practices under *Monell*. The County moved to dismiss the FAC under FRCP 12(b)(6).
19

20 B. Defendants’ Statement of Relevant Facts:

21 Defendant County of Sonoma conducted various inspections of the property located at 4640
22 Arlington Avenue, Santa Rosa, CA, through its employees, due to notice of construction without
23 permits, building code violations and zoning code violations. Most of the issues raised in this litigation
24 have been previously determined through prior litigation in *Cupp v. Smith*, Northern District Court Case
25 No. 4:20-cv-03456 and the Administrative Hearing process available through the Sonoma County Code.
26

27 Plaintiff is also making new allegations of an unlawful drone search of the property at 4640
28 Arlington Ave, Santa Rosa in June 2022. These allegations are denied.

1 Defendants are presently unaware of facts being claimed other than alleged in the Complaint,
2 which are generally being denied.

3 **3. LEGAL ISSUES**

4 **A. Plaintiff's Statement of Legal Issues:**

5 This is Plaintiff's Statement of Legal Issues as they are presently framed by the Complaint and
6 do not discuss any amendments Cupp intends to make.

7 (i) Whether Cupp has cognizable claims against Cablk or Hoffman for common law
8 trespass or invasion of privacy as alleged in paragraphs 149 and 156 of the Complaint, related to the
9 2022 incident involving the use of a drone to search the Arlington Avenue property;
10

11 (ii) Whether Cupp has a cognizable claim against the County under the *Monell* Doctrine
12 that the County has and continues to maintain one of more unconstitutional policies or practices related
13 not only to the County's use of drones in violation of the 4th Amendment but also the County's policies
14 and practices related to its methods of enforcement including but not limited to assessment of fines and
15 penalties, use of local taxing authority and/or receivership procedures to seize private land from
16 landowners, and use of other judicial and governmental agencies and procedures to impose
17 unconstitutionally excessive fines and/or penalties in violation of the 8th Amendment.
18

19 (iii) Whether Cupp is entitled to compensatory damages based on any of the legal issues
20 discussed in (i)-(ii), above, including but not limited to any fines, penalties, fees, or other damages
21 incurred within two years before the filing of the Complaint in this action;
22

23 (iv) Whether Cupp is entitled to any additional compensatory damages beyond those
24 stated in (iii), above, in light of the 9th Circuit's ruling in *Thomas v. County of Humboldt (Thomas)*, Case
25 No. 23-15847, issued on December 30, 2024 [Allowing plaintiffs' putative class action to proceed
26 alleging that the County of Humboldt's system of administrative penalties and fees pertaining to
27 cannabis abatement violates the 8th Amendment's Excessive Fines Clause. Plaintiffs stated ripe and
28

1 cognizable claims for 8th Amendment violations; Plaintiffs plausibly alleged a sufficient concrete injury
2 to satisfy standing due to the County's imposition of penalties, even before any payment. The continued
3 imposition of significant penalties caused plaintiffs emotional and psychological distress, and they
4 incurred expenses attempting to abate the violations by hiring engineers to inspect their property and
5 attorneys to defend them in hearings.] *See*, Plaintiff's **Exhibit 1**, attached (unofficial copy) for the
6 Court's convenience.
7

8 (v) Whether Cupp is entitled to either declaratory relief; specifically, Cupp seeks
9 declaratory relief that one or more of the actions undertaken by Defendants as alleged in the Complaint
10 were unconstitutional or unlawful;
11

12 (vi) Whether Cupp is entitled to injunctive relief; specifically, Cupp seeks injunctive
13 relief enjoining Defendants from entering the private property of the residents of Sonoma County
14 without first securing an inspection warrant unless (1) necessary due to exigent circumstances
15 threatening life, health or safety; (2) Defendants have the consent of the owner or possessor of the
16 property to enter without an inspection warrant; or (3) the property is "open field" or the search is
17 conducted from a public vantage point.
18

19 **B. Defendants' Statement of Legal Issues:**

20 For purposes of this Statement, Defendants do not dispute that Plaintiff is claiming the issues
21 stated above. Defendant raised as defenses in their Motions to Dismiss pursuant to FRCP Rule 12:
22 claim and issue preclusion, statutes of limitation, absolute and qualified immunities under Federal and
23 State law, reasonableness of defendants' conduct, plaintiff's failure to mitigate damages, failure to
24 timely file a tort claim, and other defenses as may appear to be warranted after the pleadings are settled.
25
26
27
28

4. MOTIONS

A. Plaintiff's Position: The pleadings will likely need to be amended further in light of the *Thomas* decision. Cupp has built this into the proposed schedule, and it should not require any further delay in commencing discovery.

B. Defendants' Position: This Court has already determined some of the issues raised in the First Amended Complaint. Defendants filed a Motion to Dismiss all the allegations in the First Amended Complaint. They also requested dismissal of any injunctive and declaratory relief based upon the *Younger* Abstention Doctrine.

Defendants anticipate filing a motion for summary judgment in the event that any claims remain after discovery. Defendants do not presently anticipate filing any discovery motions. There does not appear to be any basis for excessive depositions or written interrogatories.

5. AMENDMENT OF PLEADINGS

A. Plaintiff's Position: Plaintiff anticipates substantial discovery issues. Absent a stipulation, Cupp will seek an order allowing the number of depositions to exceed the number provided in Fed R. Civ. Proc. Rule 30(a)(2)(A)(i). Cupp also intends to move for injunctive relief as alleged in the Complaint. Cupp may file a motion for summary judgment after discovery. Cupp will file all appropriate pre-trial motions in limine.

B. Defendants' Position: No new amendments to the Complaint should be entertained by the Court. The Court clarified the limited issues still remaining in this case, in its Order Granting in Part and Denying in Part Defendants' Motions to Dismiss. (ECF 73).

6. EVIDENCE PRESERVATION

A. Plaintiff's Position: Plaintiff's counsel has reviewed the Court's *Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information* ("ESI Guidelines") and discussed them in detail with Cupp. Due to scheduling conflicts and defense counsel's need to have surgery, counsel was

1 unable to conduct an in-depth Rule 26(f) meet and confer until June 13, 2023.

2 At the telephonic conference on June 13, 2023, an attempt was made to discuss the ESI checklist
3 that forms part of the Northern District's approved Guidelines for the Rule 26(f) conference. Cupp's
4 counsel was prepared to provide all the information required by the checklist, and indeed, did provide
5 said information on Cupp's behalf. Defense counsel either did not know the answers to many of the
6 topics contained in the ESI Checklist, or he was unprepared to discuss them on June 13, 2023. Defense
7 counsel acted as though a discussion of the ESI Checklist was catching him utterly by surprise. He
8 promised instead to provide the information at some later date, despite the fact the Rule 26(f) conference
9 had been scheduled for date prior to June 13. When Cupp's counsel pressed for a date when the
10 information would be provided and suggested that the information be provided no later than June 26,
11 2023 along with a mutual exchange of the parties initial disclosures – which has also not yet occurred –
12 defense counsel became irate. He would not commit to the date offered or any date for providing the
13 additional ESI information or exchange disclosures. With regard to the initial disclosures, defense
14 counsel stated, "We are not required to." With regard to providing further ESI information, defense
15 counsel stated, "You'll get what you get." Not surprisingly, this lack of cooperation led to a breakdown
16 in the Rule 26(f) conference. Consequently, from Cupp's counsel's perspective, no agreement or
17 understanding was reached on many ESI issues, nor is there any understanding as to when, if ever, an
18 exchange of initial disclosures of information will take place. This necessitated Cupp's counsel having
19 to write an extensive letter to defense counsel following the conference, confirming what unfortunately
20 had taken place.

21 B. Defendants' Position: Defense counsel was ready to discuss these issues prior to June 13,
22 2023, and was provided Plaintiff's request for discussion on ESI Guidelines on June 13. The parties
23 discussed the guidelines at length and Defense counsel is aware of what Plaintiff wants to be preserved
24 and generally what sections of the guidelines Plaintiff counsel believes should be provided by

1 Defendants. Defense counsel now believes that the scope of discovery has been significantly narrowed
 2 by the Court's ruling on the Rule 12 Motions. All discovery should be based upon the present pleadings,
 3 not the original Complaint.
 4

5 **7. DISCLOSURES**

6 A. Plaintiff's Position: At present, neither side has served initial disclosures. No discovery has
 7 occurred, and no depositions have been taken. Again, the only reason these steps have not been taken on
 8 Plaintiff's behalf is due to counsel's illness as explained in the Young Declaration.
 9

10 B. Defendants' Position:

11 The parties discussed this issue on June 13, 2023. Defendants believe that initial disclosures
 12 (and discovery) before the pleadings are settled, are a potential waste of both parties' time and
 13 resources. Defendants will prepare Initial Disclosures based upon the few remaining issues in this case
 14 following the Order on the Motion to Dismiss the First Amended Complaint. (ECF No. 73).
 15

16 **8. DISCOVERY**

17 A. Plaintiff's Position:

18 (i) Protective Order: Cupp intends to conduct discovery into specific matters related to
 19 the County's policies, procedures and practices related to inspections of private property by Permit
 20 Sonoma/Code Enforcement and its permit approval process. It is anticipated the defense will want a
 21 protective order limiting the dissemination of this information. Cupp's position is that at least some of
 22 the information may already be in the public sphere. To the extent the information has not previously
 23 been made public by the County, Cupp's position is that the information is a matter of public concern to
 24 the people of the County, and that the information belongs to the people and not the County. Subject to
 25 the Court's orders, Plaintiff's counsel reserves the right to discuss this matter with members of the press,
 26 specifically including but not limited to the Sonoma County Press Democrat.
 27
 28

(ii) Initial Disclosures: Neither side has exchanged initial disclosures. These should be

1 ordered forthwith, and Cupp requests an order to that effect.

2 (iii) Subjects of Discovery: Cupp contends that discovery will pertain to all claims and
3 defenses alleged by any of the parties. Cupp expects that discovery will include, but not be limited to, all
4 communications and correspondence, including emails, voicemail, or other electronic communications,
5 that discuss, describe, evidence, or pertain to Cupp or the Arlington Avenue property, specifically, from
6 on or about January 2019 up to and include the present time, as certain allegations in the Complaint are
7 continuing. Discovery will also include, but not be limited to, policies, practices and procedures
8 undertaken by the County from 2010 to not later than June 2022, including statistical data, that pertains
9 to inspections of private property by Permit Sonoma/Public Resource Management Department/Code
10 Enforcement, applications for inspection warrants to conduct inspections, procedures related to and the
11 manner in which administrative citations are issued and hearings are conducted, the County's
12 methodology for calculating fines and penalties against property owners for Code violations,
13 cooperation between Code Enforcement and local law enforcement agencies in conduct searches without
14 warrants (either search or inspection warrants), and the role of County Counsel's office in these matters.

15 Electronic Discovery: Cupp believes an electronic discovery order will be necessary in
16 this case based on Plaintiff's counsel's prior dealings with the County and its rather narrow view of
17 discovery, particularly its approach to e-discovery. Plaintiff agrees most documents may be produced as
18 searchable PDFs without metadata. However, there are exceptions, including spreadsheets, database
19 records or information, texts and chat applications, and emails, which should be produced in native or
20 near-native format with any software needed to view them. Cupp anticipates collecting drone-related
21 data, including video and geo-positioning data that will also require special handling and production.

22 Privilege Claims: No order is sought at this time.

23 Timing of Discovery: No discovery has been conducted. Discovery should commence
24 immediately. No reason exists to delay discovery in this matter, particularly in light of the *Thomas*

1 decision. Both parties have conducted discovery in the underlying state case, *County of Sonoma v. Cupp*,
2 Case No. SCV-273578, but the County has successfully managed to forestall any further discovery by
3 Cupp in that matter, which will be the subject of further motions. This is all the more reason why
4 discovery should be commenced here.

5
6 To that end, Cupp will serve today a brief FRCP Rule 34(a) Request to Produce
7 Documents, seeking documents and electronically stored information which Cupp knows the County has
8 already compiled in response to one or more Public Records Act (PRA) Requests served on the County
9 late last year by the American Civil Liberties Union (ACLU), which has been investigating the County's
10 use of Code Enforcement for many months in possible preparation for its own lawsuit. Because the
11 County has already compiled and provided this documentation to the ACLU, it is required by law to
12 provide it to Cupp if Cupp served a PRA Request. GOV'T CODE § 7921.300 [No limitation allowed
13 based on purpose for which records are sought]; GOV'T CODE § 7922.500 [Public agency not permitted
14 to delay or obstruct the inspection or copying of public records]; GOV'T CODE § 7921.500
15 [Administration of agency under inspection allowed unless disclosure is otherwise prohibited by law];
16 (Added by Stats. 2021, Ch. 614, Sec. 2. (AB 473) Effective January 1, 2022. Operative January 1, 2023,
17 pursuant to Sec. 7931.000); GOV'T CODE § 7921.505(b) [if a state or local agency discloses to a member
18 of the public a public record that is otherwise exempt from this division, this disclosure constitutes a
19 waiver of the exemptions allowed under PRA including Sections 7920.505, 7924.510, 7924.700, and
20 other similar provisions of law].

21
22
23
24 Discovery Limits: Cupp anticipates that this matter will require more than ten (10)
25 depositions as provided in Rule 30(a)(2)(A)(i) and sought a stipulation from defense counsel to exceed
26 the number provided by the rule at the Rule 26(f) conference on June 13, 2023. In order to establish a
27 *Monell* claim based on a practice or procedure, Cupp must demonstrate that his treatment by Defendants
28 was not an isolated incident, necessitating the deposition of a number of other affected property owners.

1 Plaintiff's counsel has submitted, and continues to submit, declarations from property owners who will
2 need to be deposed. The number of affected property owners who have signed declarations already
3 approaches ten (10) individuals, and there are several more that Cupp has yet to submit. It was Cupp's
4 counsel's understanding that defense counsel had agreed to the stipulation, but based on his additions to
5 this joint statement, Cupp's counsel is now not so certain.
6

7 At the Rule 26(f) conference, counsel agreed to depart from Rule 33(a) and, further, that
8 each side could propound up to 60 interrogatories total. Now, defense counsel is "seeking guidance"
9 from the Court, so evidently, defense counsel is backing out of the stipulation reached at the Rule 26(f)
10 conference.
11

12 Cupp agrees to serve all discovery requests and responses by electronic mail. Cupp proposes that
13 for purposes of computing time, service of discovery requests by email shall be treated as if service was
14 made by U.S. mail pursuant to Fed. R. Civ. P. 5(b)(2)(C). It is unclear if defense counsel agrees to treat
15 this service as if it is service by mail.
16

17 Finally, Cupp proposes that any expert witnesses be deposed by remote video conferencing if the
18 expert is located more than 50 miles from Santa Rosa, California, and that the video depositions may be
19 used at trial. Cupp will explore an appropriate stipulation with Defendants' counsel. It is unclear if
20 defense counsel agrees that the video testimony can be used at trial in lieu of live testimony.
21

22 B. Defendants' Position:

23 Discovery can proceed based upon the remaining claims. Initial disclosures can also proceed
24 since the Plaintiff's pleadings are settled. There is no legitimate reason to direct discovery to non-
25 parties (any defendant who was dismissed), nor to allow a wide and unrestrained scope of discovery
26 since Plaintiff is not allowed to proceed on numerous claims and causes of action. There will
27 undoubtedly be substantial disagreements on the responses (by either side) and a request for referral to a
28 magistrate judge for assistance resolving the disagreements.

1 Defendants believe that based upon the Court's decision on the Rule 12 Motions, that the number
2 of depositions will be limited and not exceed the amount allowed per side by Federal rule. The number
3 of interrogatories should not exceed more than 25 per side. There is no basis under the pleadings about a
4 single incident which is factually disputed, that any significant discovery is necessary. The alleged June
5 2022 drone flyover incident took place long after the inspections of the property; and the drone policy
6 will be irrelevant if there is no drone flyover as alleged. The remaining issues are moot based upon this
7 Court's Ruling on the Rule 12b Motion.
8

9 The parties will seek guidance from the Court in the event that agreement cannot be reached
10 about the total number of depositions and interrogatories per side.
11

12 Defendants agrees to electronic service of discovery requests and responses, but it should be
13 noted that many of the records that may be requested are not electronic records, but are documents
14 downloaded for storage from paper records.
15

16 Defendants agree to depositions of expert witnesses via remote video conferencing; and possibly
17 with use of the video testimony at trial in lieu of live testimony.
18

19 **9. CLASS ACTIONS**

20 A. Plaintiff's Position: This is no longer an issue, so the defense position is moot.

21 B. Defendants' Position: Based upon the Plaintiff's acknowledgment, no further position is
22 needed.
23

24 **10. RELATED CASES**

25 A. Plaintiff's Position: Subsequent to the filing of this case, Defendants filed the state case
26 mentioned below. There is also a related matter now filed, *Meyer v. County of Sonoma*, Case No. 3:24-
27 cv-09056, which was filed on December 13, 2024. That case was just served in April 2025.

28 B. Defendant's Position: *County of Sonoma v. Ronald Cupp*, Case No. SCV 273578 was filed in
the Superior Court of California, Sonoma County. This case was filed to enforce the Administrative

1 Hearing Decision pertaining to this property. Work was commenced pursuant to permits and has been
2 completed for the most part. There are outstanding issues of civil penalties, staff and counsel costs,
3 since the other issues were resolved via the Administrative Hearing. Court trial is set for June 13, 2025.
4

5 **11. RELIEF**

6 A. Plaintiff's Position: Under the current Complaint, Cupp seeks the following relief:
7 compensatory damages, punitive damages against individual Defendants (on state law claims),
8 declaratory and injunctive relief. Cupp also seeks an award of attorney's fees and costs as well as
9 interest as allowed by law.
10

11 B. Defendants' Position: There is no legal or factual basis for recovery of any damages or for
12 any form of injunctive relief.

13 **12. SETTLEMENT AND ADR**

14 A. Plaintiff's Position: Plaintiff requests a referral to a Magistrate Settlement Conference once
15 the pleadings are settled and some discovery has occurred.
16

17 B. Defendants' Position: The parties attempted to resolve many of the issues presented in this
18 case, with the Honorable Kandis A. Westmore after referral in Case No. 4:20-cv-03456. Defendants are
19 amenable to referral to Judge Westmore, or another Magistrate Judge. Defendants' settlement position
20 has changed significantly since those discussions in 2022.
21

22 **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

23 A. Plaintiff's Position: Plaintiff has already objected to magistrate judge jurisdiction, but as
24 noted above, Cupp will consent to a referral to a Magistrate Settlement Conference.

25 B. Defendants' Position: Not applicable.

26 **14. OTHER REFERENCES**

27 A. Plaintiff's Position: Based on the outcome of the Rule 26(f) conference, Plaintiff anticipates
28 the potential need for a discovery referee. Plaintiff is not making that a formal request at this time, but

reserves the right to make this request should a lack of cooperation persist.

B. Defendants' Position: None at this time.

15. NARROWING OF ISSUES

A. Plaintiff's Position: This issue was previously addressed in the discussion above regarding Defendants' motions to dismiss.

B. Defendants Position: Defendants believe that the issues have been narrowed significantly as a result of its Motions to Dismiss. They anticipate further narrowing of issues and final judgment via Motion.

16. EXPEDITED TRIAL PROCEDURE

A. Plaintiff's Position: Cupp does not believe this matter can be handled under the expedited trial procedures.

B. Defendants' Position: It is possible that after the motions to dismiss, the issues in this case can be handled via expedited trial procedures.

17. SCHEDULING

Plaintiff's Position:

Action/Activity/Proceeding	Due Date/Deadline/Hearing Date
Amendments in light of <i>Thomas</i> Decision, if any are necessary	
Close of fact discovery	October 31, 2025
Expert disclosure/reports due	January 9, 2026
Expert/rebuttal reports due	January 23, 2026
Expert discovery cut-off	February 13, 2026
File motions for summary judgment by	TBD

1 File oppositions to motions for summary judgment by	TBD
2 File replies to motions for summary judgment by	TBD
3 Pre-trial conference	TBD
4 Trial	TBD

6 B. Defendants' Position: Defendants expect neither fact nor expert discovery should not take
7 very long based upon the ruling on the Motions to Dismiss. The issues are very narrow at present.

9 **18. TRIAL**

10 A. Plaintiff's Position: Plaintiff has demanded a jury trial and estimates the trial would take 5 full
11 days as the pleadings are framed presently. The trial time could be longer if additional parties or claims
12 are added, or if the matter is certified as a class.

13 B. Defendants' Position: The trial should be shorter depending upon the remaining issues.

15 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

16 A. Plaintiff's Position: Plaintiff has no such interests to report.

17 B. Defendants' Position: None known at present.

19 **20. PROFESSIONAL CONDUCT**

20 A. Plaintiff's Position: Plaintiff's counsel has reviewed the Guidelines for Professional Conduct
21 for the Northern District of California.

22 B. Defendants' Position: Defense counsel has reviewed the Guidelines for Professional Conduct
23 for the Northern District of California.

25 **21. OTHER MATTERS FOR CONSIDERATION**

26 A. Plaintiff's Position: It is of paramount concern and importance that this matter
27 proceed, particularly that disclosure and discovery commence at once. Any further delay prejudices
28 Cupp, emboldens the County's continued violations of the Constitutional rights of its people, and

1 promotes obstructionist litigation tactics the FRCP expressly forbids. FRCP Rule 1.

2 Delay, delay, delay is the County's "M.O." It is front and center in the underlying state case
3 where the County has sought to compel discovery from Cupp when it suits them, but seek protective
4 orders from the Court when Cupp tries to obtain discovery from the County. This has led to lop-sided
5 decisions by the state court, which will be subjects of further motions. There is simply no merit to
6 Defendant's position that neither discovery nor disclosures should commence until the pleadings are
7 settled. Defendants want to have their "cake and eat it too."

8
9 B. Defendants' Position: Defendants disagree with comments made by Plaintiff counsel in this
10 section and related sections.
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12
13

14 Dated: May 6, 2025

Robert H. Pittman, Sonoma County Counsel

15
16 By: Michael A. King
17 MICHAEL A. KING,
18 Deputy County Counsel
19 Attorneys for Defendants
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